> Group IV. Claims 93-112, 118, and 119, drawn to a cosmetic composition, classified in class 424, subclass 9.322,
>
> Group V. Claims 113-117, drawn to a make-up composition, classified in class 510, subclass 844, and
>
> Group VI. Claims 120 and 121, drawn to a cosmetic process, classified in class 424, subclass various.

See Office Action, page 2. Applicants respectfully point out to the Examiner that Claim 92 is actually drawn to a composition, and thus Applicants believe Group III is intended to include claims 90-91, and Group IV is intended to include claims 92-112.

The restriction requirement, as set forth above and on pages 2-6 of the Office action, is respectfully traversed. However, to be fully responsive to the restriction requirement, Applicants elect, with traverse, to prosecute the subject matter of Group I, Claims 1-35 and 72-89, and, as a single disclosed species, Applicants elect the polymer of Example I.

Specifically, Applicants traverse the restriction requirement because there would be no serious burden in searching Groups I through VI together. Applicants respectfully refer the Examiner to M.P.E.P. § 803, which sets forth the criteria and guidelines for Examiners to follow in making proper requirements for restriction. The M.P.E.P instructs the Examiner as follows:

> If the search and examination of an entire application can be made **without serious burden**, the Office **must** examine it on the merits, even though it includes claims to independent or distinct inventions.

M.P.E.P. § 803 (emphasis added).

Here, the Examiner has not shown that examining Groups I and II-VI together would constitute a serious burden. Rather, the Examiner admits that various groups are

related as: subcombinations disclosed as usable together in a single combination (Groups I and II, *see* Office Action at 2), process of making a product made (Groups I and III, and Groups II and III, *see* Office Action at 3), mutually exclusive species in an intermediate-final product relationship (Groups I and IV, Groups II and IV, Groups I and V, and Groups II and V, *see* Office Action at 3-4), subcombinations disclosed as usable together in a single combination (Groups IV and V, *see* Office Action at 4), and product and process of use (Groups I and VI, Groups V and VI, *see* Office Action at 4). The Examiner contends that the above related groups can also be distinct, but does not specify what serious burden will be placed on the Examiner if she were to proceed in examining the groups together, as required by M.P.E.P. § 803.

Applicants respectfully submit that, at a minimum, examining the claims of groups I, III, and IV together would not impose a serious burden. Moreover, while M.P.E.P. § 803 states that "a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation of separate classification," among other things, the Examiner, instead, indicates that Groups II and III fall into the same class: 526, and Groups IV and VI fall into the same class: 424. *See* Office Action at 2.

Additionally, Applicants respectfully submit that, in particular with respect to inventions I and VI, examining a novel composition and a process of using the novel composition does not impose a serious burden on the Examiner, especially in light of the requirement of rejoinder. *See* M.P.E.P. § 821.04.

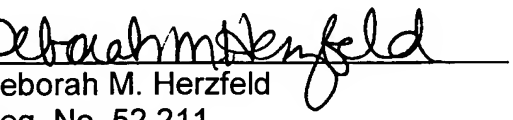
Accordingly, Applicants respectfully request that the Office withdraw the restriction requirement and examine all Groups together.

If there is any fee due in connection with the filing of this Statement, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.

Dated: May 18, 2005

By: 
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